

**Before the
Federal Communications Commission
Washington DC 20554**

In the Matter of:

)

Schools and Libraries Universal Service)
Support Mechanism - Third Report and CC Docket No. 02-6)
Order and Notice of Proposed Rule Making)

**Initial Comments of the
Louisiana eRate Filers Organization
(LaErate)**

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Foreword

We commend the Commission for allowing us an opportunity to offer suggestions and recommendations to improve the eRate program. The eRate discount program is helping us to bridge the digital divide by bringing new technologies and the power of the Internet to Louisiana schools and libraries. In turn, schools and libraries are bringing innovative new learning models to children and lifelong learners, as well as a host of unexpected synergies to entire communities in our state.

The comments being submitted represent a consensus of 148 Louisiana eRate (LaErate) schools and libraries applicants. LaErate is an organization that began in 2002 as result of training initiatives by the Louisiana Resource Center for Educators. LaErate members typically file eRate applications at the local level on behalf of schools, districts, and libraries in Louisiana. Members of the organization work cooperatively to stay abreast of the latest policy and regulation changes.

Discount Matrix

LaErate members urge the Commission to reduce the discount band on Internal connections from 90% to 80%. We believe this reduction will curtail waste, fraud and abuse by eliminating the temptation of schools and libraries in the 90% category to purchase products without regard to cost. The change would discourage vendors from simply "writing off" the 10% non-discount share. It is anticipated schools and libraries would plan more carefully and shop more wisely with the reduction from 90% to 80%.

LaErate members do not want a reduction in the discount of 70% because we feel this would place an undue hardship on poorer schools and libraries to pay a non-discounted share of 30%.

We support the current discount matrix for Priority One services.

Competitive Bidding:

The membership supports the current competitive bidding process that uses the Form 470; however, we believe there should be revisions in policies surrounding the process.

Currently, the Form 470 requires a 28-day window in which applicants must enter into a contract for services and products that are not month to month or tariff. We believe this time frame is unreasonable for applicants because it forces them to sometimes make hasty and costly decisions. As an alternative solution, we request that the Commission consider using signed quotes for products during the Form 470 window and allow contracts to be signed AFTER funding decision letters are received.

We do not believe applicants should be denied funding for checking a wrong box on the Form 470. Many Louisiana applicants have been denied for checking the telecommunications box when they should have checked the Internet access box. Program Integrity Assurance (PIA) should be given authority and flexibility to determine if this is a simple data error or a more complex problem. We encourage the Commission to either eliminate these boxes from the Form 470 or give more flexibility to PIA staff members to work with the applicant to rectify the problem.

Louisiana applicants request that the Commission consider password protecting the Form 470 process. Only applicants should be allowed to file a Form 470; however, this is not the case under the current program. Many Louisiana applicants have fallen prey to unscrupulous vendors that file a Form 470 without an applicant's knowledge or permission. Vendors target applicants that have not

filed for eRate in the past. Once the vendor has filed a Form 470, they contact the applicant and offer free consulting services to secure an eRate grant. The vendor then takes over the process.

Definition of Rural Area:

We do not support the Goldsmith formula that is being used to determine rural areas for eRate funding.

This out-of-date map below shows Louisiana rural health clinics as defined by the Office of Management and Budget prior to 2003. This map is closely aligned with the rural areas as currently defined by eRate.



Below is a map of Louisiana showing the current rural health care areas using the Micropolitan criteria. We strongly urge the Commission to use the new rural health care definition to determine rural status for the eRate program.



Using the current Goldsmith formula, 40 of Louisiana 64 parishes are classified as rural. Under the proposed definition, 57 of Louisiana's 64 parishes have some rural classifications. We strongly urge the Commission to follow the new definitions now being used to certify Primary Care and Rural Health services throughout the United States. Additionally, we encourage the Commission to allow schools and libraries to declare rural discounts for those areas in eligible zip code areas.

Definition of Internet Access:

Our group does not support a redefinition of Internet access that includes content. We believe this will open additional avenues for waste, fraud and abuse. Vendors may view this as an opportunity to bundle expensive curriculum products that have no relationship to connectivity to the Internet. Additionally, we believe the requests for funding in this category will rise to a point that "Priority 2" funds will not be available.

Wide Area Networks:

We do not support a new standard for re-determining on-premise or off-premise eligible products. The Tennessee decision clearly gives guidance to applicants and vendors as to the eligibility of equipment.

We encourage the Commission to continue the policy of allowing upfront capitol investment costs as they relate to Wide Area Networks. For some Louisiana schools and libraries, this policy attracted broadband providers in remote areas that would have otherwise not been served. We do recommend, however, that the Commission adopt a rule to allow construction costs up to \$500,000 or more be prorated over a period of at least five years.

We do not support a rule that will allow applicants to preclude discounts on the full cost of dark fiber networks build out when the applicant will not be utilizing the full capacity of the network. We believe this places an undue burden on the fund. With the rapid change in technology this could result in a poor investment as less expensive technology emerge in the future.

Recovery of Funds:

We urge the Commission to create procedures to allow for the recovery of funds that have been disbursed in violation of one or more program rules. These procedures are necessary to protect the fund and ensure the program's success.

Our membership objects to a statutory or programmatic requirement to allow rigorous scrutiny of applicants who have previously received a commitment adjustment letter. In 2003, several Louisiana applicants received COMAD letters due to errors made by the School and Libraries Division. We feel these applicants and others should be not subjected to more scrutiny in the future.

Other Actions to Reduce Waste, Fraud and Abuse

See Comments: Discount Matrix, Competitive Bidding, and Internet Access

Technology Plans

Currently, the technology plan requirements implemented by PIA for E-Rate funding do not comply with policies stated on the SLD website. Certification by the Louisiana Department of Education has been constantly modified to meet the ever changing demands of the PIA and selective review processes and much PIA policy is still not documented. Under selective review, several applicants have been told their approved technology plans do not comply with E-Rate because of

the retroactive application of these new procedures. Technology Plans that are certified for three years are now being considered invalid. The website also states "Technology plans approved for EETT are deemed valid for E-rate."¹

To comply with the PIA technology plan scrutiny, the department provides an addendum budget form for listing of eRate services. Technology coordinators in Louisiana have been instructed to include all possible Form 470 requested items as part of an addendum or revision. It was noted that the budget was not required to identify every item listed on the 470. E-Rate applicants are often caught off guard when Program Integrity Assurance misinforms them that their certified technology plan, no longer meets all of the requirements of eRate.

For many schools and libraries, the Universal Service Program itself may be one of these new opportunities. However, there is no need to write or develop a specific Universal Service Program or "E-Rate" technology plan. As discussed in Section IV of this document, it is only necessary that the approved plan include a sufficient level of information to justify and validate the purpose of a Universal Service Program request. It does not have to include the specific details and information called for on FCC Forms 470, 471, 486, and 500. The information provided on those forms should build on the foundation provided by the approved Technology Plan, by documenting specific implementation details and operational steps that are being taken under the plan. That information will be considered a refinement of the plan, as long as the requested services can be supported by the plan.²

Additionally, the educational community typically plans technology around curriculum and student achievement, and therefore does not identify telephone, long distance, pager or cellular services. We believe the current policies should not require telecommunication services to be included in the technology plan. This is warranted by the statement as part of the E-Rate application process:

Please note that no technology plan is required if you are applying for E-rate discounts on basic local and long distance telephone service.³

A policy that requires vendors to retain records for a period of five years in order to demonstrate compliance of E-Rate rules is recommended. Additionally, we support rules that mandate vendors to comply with random audits or reviews by

¹ Presentation 2003 by Catriona Ayers:

<http://www.sl.universalservice.org/data/ppt/2003/technology%20planning.ppt>

² Technology Planning: <http://www.sl.universalservice.org/APPLY/step2.asp#2ii>

³ Technology Planning: <http://www.sl.universalservice.org/APPLY/step2.asp>

the Commission or USAC in order to ensure program compliance and authorization of the release of information.

Prevention of Unauthorized Applications by Subunits

LaErate members support policies that require outside consultants and experts, whether paid or unpaid, to register with USAC. In order to provide consulting services to eRate applicants, we believe consultants should be required to attend trainings offered by USAC or to produce evidence of knowledge of the eRate program. We support adoption of a policy to require consultants to disclose any conflicts of interest.

We support efforts to codify the SPAC process; however, we strongly recommend that the website list the first year the SPIN was issued. Currently, vendors do not have a full year before they are required to file a SPAC. In fact, when a vendor receives a SPIN they are technically out of compliance (according to the website) with the annual certification. By listing the year the SPIN is issued, vendors will have a full year to file their first SPAC form.

Use of Surveys to Determine School Lunch Eligibility

LaErate members do not support changes in the survey method for determining eligibility. We do, however, support a plan to give priority to schools and libraries with a discount rate of 60% or more have not achieved Internet connections in classrooms or libraries. We recommend that this priority be given by allowing unused funds to flow to these schools and libraries first. After all of these schools have Internet access, and then other applicants can be considered for funding. We do not believe rewiring or upgrades to LAN's should be included in this plan. We recommend a policy be adopted whereas schools and libraries given "unwired" priority must consider the most cost effective solution.

Conclusions

Louisiana eRate applicants continue to strive to meet all of the program's policies, rules and deadlines; however, we believe the program must be streamlined in order to ensure continued success. Louisiana eRate filers face daily uncertainty of whether or not we have complied with all the rules of the program and if a minor oversight will result in a loss of vital funding or our jobs. We hope the Commission will continue to streamline the process and give more flexibility to SLD staff members to work with applicants to resolve unintentional errors.